IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

NOTICE OF MOTION NO.22 OF 2005

IN

PETITION NO.22 OF 2002

Girish Ramanlal Khambolja. ...Deceased.

Mrs.Rekha Girish Khambolja. ...Petitioner.

Mr.Sanjay Jain i/b. S.K.Srivastav & Co., for Petitioner.

Caveator in person present.

CORAM: D.K.DESHMUKH,J.

DATED: 7th September,2006.

P.C.:-

1. This is a notice of motion taken out by the petitioner for dismissal of the caveat. The caveat has been filed by one Hardeep Trilokinath Trehun. The admitted position is that he is a tenant in the property which is left behind by the testator. He is in no way related to the deceased. He is also not propounding a rival Will. In view of the provisions of Rule 402 of the Rules framed by this Court and the judgment of the Single Judge of this Court in the

case “Eruch Rustom Irani Vs. Limji Kaikashroo Panday, 1993(1) Bom.C.R. 340”, the Caveator does not have caveatable interest and therefore, he is not entitled to file the caveat. The notice of motion is therefore, granted in terms of prayer clause (a). It is made clear that this order shall not come in the way of the caveator taking appropriate proceedings for protection of his rights and interest as tenant of the property.

2. In view of the dismissal of the caveat, the office is directed to process the petition further in accordance with law.